

## ADVISORY OPINION 2004 - NO. 3

Identical Newsletters  
April 15, 2004

### INTRODUCTION

The State Ethics Act, in RCW 42.52.185(1)(a), provides in pertinent part:

During the twelve month period beginning on December 1 of the year before a generalelection for a state legislator's election to office and continuing through November 30 immediately after the general election, the legislator may not mail, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:

The legislator may mail two mailings of newsletters to constituents. *All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address.* (Emphasis added)

The Board believes that answering the following questions, which the Board raises on its own motion, will clarify the meaning of "identical" newsletters.

### QUESTIONS

1. May newsletters in the same mailing be printed in more than one language and still be considered "identical as to content"?
2. May some of the newsletters in the same mailing be sent by regular mail and others sent electronically without violating the "identical as to content" requirement?
3. If a legislator may utilize both regular mail and electronic mail within the same mailing, would an accompanying short statement explaining the differences, or the reason why the constituent was receiving one form instead of the other, violate the requirement that each newsletter be "identical as to content"?
4. The Board has previously concluded that government guides are newsletters. Some legislators represent multi-county legislative districts and have tailored their government guides to ensure their constituents receive the government guide for the county in which they reside. Would this practice in an election year violate the "identical as to content" requirement?

## ANSWERS

1. Producing and mailing a newsletter in more than one language does not violate the "identical as to content" requirement if such newsletters are authorized under Senate or House rules.
2. Newsletters are "identical as to content" when some of them are sent through regular mail and others are electronically transmitted.
3. A short statement appended or accompanying either or both a printed newsletter and an electronic newsletter, explaining it is available in either form or why the recipient is receiving it in one form rather than the other form, does not violate the requirement that newsletters be "identical as to content."
4. So long as government guides are permitted, legislators who represent multi-county legislative districts should be able to send government guides tailored for each county within the same mailing during an election year. While not strictly "identical" these guides are limited to certain information such as county and local officials, service agencies and organizations, etc., and are within the spirit and intent of the mailing statute so long as they are part of the same mailing. To conclude otherwise could result in a situation where a legislator who had three counties in her/his legislative district would only be able to mail to two of them in an election year and in the process use up the allotment of two mailings. In the alternative, this legislator would have to send a large tri-county government guide to constituents who would arguably have no use for a large portion of the information. A legislator whose district is encompassed by a single county would not be presented with these restrictive alternatives.